



Rep. Jennifer Gong-Gershowitz

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10400HB4206ham001

LRB104 16254 JRC 35592 a

1 AMENDMENT TO HOUSE BILL 4206

2 AMENDMENT NO. _____. Amend House Bill 4206 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Charitable Organization Beneficiary Act.

6 Section 5. Definitions. As used in this Act:

7 "Beneficiary designation" means the provision in an
8 instrument designating a beneficiary, other than in a will or
9 an instrument creating a trust, and may also mean the
10 instrument itself, including, but not limited to, any of the
11 following:

- 12 (1) an annuity or insurance policy;
- 13 (2) an account with a designation for payment upon
14 death;
- 15 (3) a security registered in beneficiary form;
- 16 (4) a pension, profit-sharing plan, retirement account

1 such as an IRA, 401(k), 403(b), or other
2 employment-related benefit plan; or

3 (5) any other nonprobate asset transferable upon
4 death.

5 "Charitable organization" means an entity that is exempt
6 from taxation under Section 501(c)(3) of the Internal Revenue
7 Code.

8 Section 10. Notice of death of owner of property. If the
9 holder of property that has a beneficiary designation has been
10 notified of the death of the owner of the property, the holder
11 of the property must within 45 business days of the
12 notification provide notice to each charitable organization
13 listed under the beneficiary designation that the charitable
14 organization may have a right to the property and provide the
15 charitable organization with the name of the owner of the
16 property, contact information of the holder of the property,
17 and a general description of the property held for the benefit
18 of the charitable organization and the exact language of the
19 beneficiary designation except that the names of any other
20 beneficiaries that are not charitable organizations may be
21 redacted.

22 Section 15. Charitable organization affidavit of interest
23 in property.

24 (a) If a charitable organization is a beneficiary of an

1 interest in property created by beneficiary designation, that
2 charitable organization may present an affidavit to the holder
3 of the property or to any person with information about the
4 property to obtain the property or information regarding the
5 property. The affidavit must state all of the following:

6 (1) the decedent's name and last known address to the
7 extent known;

8 (2) a general description of the property to the
9 extent known;

10 (3) the charitable organization's name, address, and
11 primary contact information;

12 (4) the charitable organization is a charitable
13 organization;

14 (5) a request that the property be paid, delivered, or
15 transferred to the charitable organization or that
16 information about the property be given to the charitable
17 organization;

18 (6) the charitable organization has a right to the
19 interest in the property listed in the affidavit to the
20 extent known;

21 (7) the affidavit has been signed by an authorized
22 representative of the charitable organization under
23 penalty of perjury before a notary public as provided in
24 the Notary Public Act; and

25 (8) the information in the affidavit is true and
26 correct to the best of the affiant's knowledge or belief.

1 (b) The affidavit must be accompanied by all of the
2 following:

3 (1) a copy of the charitable organization's
4 determination letter from the Internal Revenue Service
5 recognizing its tax-exempt status;

6 (2) a copy of the charitable organization's
7 Certificate of Good Standing issued by the Secretary of
8 State;

9 (3) a death certificate of the decedent, probate
10 notice published by the personal representative of the
11 decedent's estate, proof of payment of the decedent's
12 funeral expenses, or the decedent's obituary as
13 verification of the decedent's death;

14 (4) a corporate resolution or similar statement of
15 authority of the affiant to act on behalf of the
16 charitable organization; and

17 (5) Internal Revenue Service Form W-9 completed by an
18 authorized representative of the charitable organization.

19 Section 20. Duties of the holder of the property.

20 (a) The holder of the property may not do any of the
21 following:

22 (1) require the charitable organization to establish
23 an account with the holder of the property or otherwise
24 become a customer of the holder of the property;

25 (2) require co-beneficiaries to submit claims

1 simultaneously or impose coordination deadlines among
2 co-beneficiaries; or

3 (3) delay payment to any co-beneficiary if other
4 co-beneficiaries have not submitted their claim
5 documentation.

6 (b) The holder of the property may not request any
7 additional personal information from any individual employed
8 by or serving on the board of the charitable organization,
9 including, but not limited to, any of the following:

10 (1) Social security number or driver's license number;

11 (2) personal contact information, including home
12 address;

13 (3) personal financial information;

14 (4) date of birth;

15 (5) passport;

16 (6) annual income;

17 (7) value of personal assets;

18 (8) credit checks;

19 (9) criminal background checks;

20 (10) marital status;

21 (11) number of dependents; or

22 (12) spouse's maiden name.

23 (c) Nothing in this Act alters the responsibilities or
24 duties of the beneficiary or holder of the property under the
25 Revised Uniform Unclaimed Property Act or the Unclaimed Life
26 Insurance Benefits Act.

1 Section 25. Transfer of property. If the requirements of
2 this Act are satisfied, the holder of the property must do
3 either or both of the following:

4 (1) Pay, deliver, or transfer the property to or for
5 the benefit of the charitable organization if the
6 affidavit has requested the transfer, payment, or delivery
7 of the property to the charitable organization; or

8 (2) Deliver the information requested in the affidavit
9 to the charitable organization.

10 Section 30. Good faith reliance on information given to
11 the holder. The holder of the property and any person who in
12 good faith delivers the property or information requested in
13 reliance on the information a charitable organization provides
14 under this Act, who has no knowledge that representations
15 contained in the affidavit are incorrect, is not liable to any
16 person for so acting and may assume without inquiry the
17 existence of the facts contained in the affidavit.

18 Section 35. Failure or refusal of holder of the property
19 to act. If the holder of the property fails or refuses to
20 provide the requested property or information within 60
21 business days after receiving the affidavit, the charitable
22 organization may bring an action against the holder of the
23 property to receive the information about the property or

1 recover the property or compel the delivery of the property.
2 An action brought under this Act must be brought within one
3 year after the date of the act or failure to act. If the court
4 finds that the holder of the property acted unreasonably in
5 failing to provide the requested information or to pay,
6 deliver, or transfer the property, the court may award to the
7 charitable organization any or all of the following:

8 (1) immediate delivery of the requested information or
9 delivery or recovery of the property or value of the
10 property;

11 (2) damages sustained by the charitable organization;

12 (3) costs of the action;

13 (4) a penalty in an amount determined by the court
14 between \$500 and \$10,000; or

15 (5) reasonable attorney's fees based on the time
16 expended by the attorney to obtain the requested
17 information or payment, delivery, or transfer of the
18 property without regard to the amount of the recovery on
19 behalf of the charitable organization."